Digitized by the Internet Archive
in 2011 with funding from
Associates of the Boston Public Library / The Boston Foundation

http://www.archive.org/details/memorialofprofes00schm

MEMORIAL

OF

PROFESSOR S. S. SCHMUCKER,

RELATIVE TO BINDING OUT

MINOR COLORED CHILDREN.

READ IN THE HOUSE OF REPRESENTATIVES, MARCH 7, 1839.

HARRISBURG:
BOAS & COPLAN—PRINTERS.

1839.

res. 7585.73 no.11

MEMORIAL, &c.

MINOR COLORED POPULATION OF PENNSYLVANIA.

To the Honorable Senate and House of Representatives of the Commonwealth of Pennsylvania.

THE MEMORIAL OF S. S. SCHMUCKER, citizen of Adams county, in the Commonwealth of Pennsylvania.

RESPECTFULLY REPRESENTS :—

That your memorialist in common with multitudes of his fellow citizens, has long contemplated with regret the depressed and unprofitable condition of the great mass of the colored population of our state. It is well known to your honorable body, that the major part of them fail to make a comfortable support for themselves, or to prove useful to those around them, whilst not a few are found in almost every town, who pursue no visible means of making an honest living, but subsist in part at least by petty depredations on the rights and property of others. There is dubtless a combination of causes to which the deplorable condition, this portion of our population may be traced by the accurate observor, a condition which no philanthropist or true friend of his country can contemplate with indifference; yet, after much attention to this subject, your memorialist is persuaded that there is one cause more operative than all the rest combined, the removal of which is entirely within the power of your honorable body. When we reflect on the powerful influence which early habits exert on all men throughout life, and remember that, whilst nineteen twentieths of our fellow citizens, train up their children to some regular business or calling as a means of future subsistance, not one in twenty of our colored population is brought up to regular labor and business of any kind, it appears obvious, that the want of early training to industry and business, is the grand cause of the indolence and unthriftiness of so large a portion of them. Who among us, when we occasionally see one of our citizens raising his children in idleness, without theaching them any regular business, does not confidently predict, that they will prove worthless? Since, then, the cause of the evil complained

of, has mainly, in the neglect of colored parents to bind out their children at a proper age, to some regular art, trade or calling, and in their incapacity to teach them such art or trade themselves, it seems evident that the remedy must be sought in legislative provisions to obviate this neglect. Your memorialist therefore, presents a sketch of such provision, to which he respectfully invites your attention. It was at first his design to bring this matter before you by petitions, with numerous signatures, of which it is believed, tens of thousands could easily be procured; but the facts in the case, and the feelings of our fellow citizens are so well known to all the members of your honorable body, that it was deemed unnecessary to occupy your time by an attempt to prove them by numerous petitions.

It cannot justly be objected to the annexed bill, that it infringes the rights of colored parents, since it only requires them to do what, as good parents, they ought not to neglect, and what other parents generally perform from choice. It is, moreover, only an exercise of the right of any community to protect themselves from the depredations of others, by legislative enactment, designed to prevent crime rather than punish it; and of the right of the commonwealth to improve the condition of her own population; a right, the justice of which cannot be denied, if the legislative action based on it, require only performance, of what all acknowledge to be a duty, and what the residue of the community have greatly done without legislative constraint. The principle of this bill seems, moreover, to be sanctioned by the decisions of our courts in which it is held, that "if the parent of a child lives at a distance, and long relinquished the protection of the child, a next friend to the child may bind it, and the act be valid," (1 S. & R. 366.) Those colored parents who neglect to either teach or have their children taught any mode of subsistance, have certainly failed, however undesignedly it may have been, in the proper "protection" of their children, and the law may very properly step in as a "next friend" to supply the neglect. And it is also in their power to supercede the action of the law by voluntarily performing the requisitions, before the age of their children brings them within its provisions.

The age is fixed late, in order that time may be left for the children to reap the benefit of our noble free school system, before they are indentured.

It is the opinion of numerous persons whom your memorialist has

consulted, that after the accumulated number of minors whom the law will find unprovided for, shall have been disposed of, there will be no difficulty in finding places for all, especially among our agriculturalists and others, to whom they would prove very useful assistants; and it is probable that in most places no difficulty will occur even in the first instance. Thus this population instead of being crowded into our cities, towns and villages, where many spend their time in idleness, intemperance and wretchedness, would be distributed especially through the country, and grow up with habits of industry and capacity, for self support and usefulness. It is not unworthy of remark, that the execution of the law would not cost the commonwealth a dollar, whilst it would secure most important benefits to the community, and especially, to the unhappy and neglected portion of our race, whose improvement it immediately contemplates. For these reasons your memorialist very respectfully solicits your body to consider the annexed bill, and if in your judgment, it is calculated to advance the public good, to avail it into a law, with such corrections as your wisdom may suggest.

S. S. SCHMUCKER,

Citizen of Adams county, Pa.

Gettysburg, March 2, 1839.

An act concerning the minor colored population of this Commonwealth.

Whereas, A large portion of the colored population of this commonwealth, has heretofore, not been brought up to any regular trade, art, occupation or calling; in consequence of which they have labored under peculiar difficulties in making an honest support; and not having acquired habits of industry in youth, have failed to prove as useful to themselves and others, as they otherwise would have done.

Sect. I. Therefore be it enacted, that from and after the passage of this act, all colored minors in this commonwealth, who are above the age of fourteen, if males, and thirteen, if females, who have not been bound by their parents or other legal authority, by regular indenture, to serve as apprentices to some art, trade, calling or service shall be bound as apprentices in the manner hereafter specified; except in the following cases, viz:

1. When the father himself is of temperate industrious habits, follows some regular art, trade, or calling, keeps his son or sons reg-

ularly employed, and is able to support, and capable to teach him or them said art, trade or calling.

2. When said minor produces a certificate from a qualified and respectable teacher, that he is regularly and successfully employed in pursuing the higher branches of education, is of good moral character, and has the means of honest support.

3. In the case of females, when it shall be made to appear that they are needed for the conduct of the family, and are kept employed, and that their parents can comfortably support them, and teach them domestic service.

SECT. II. It shall be the duty of the commissioners of the several counties of this commonwealth annually, to issue their precept to the assessors of every township, ward or district within the county, requiring them, when making out the list of taxables, to enter in a separate column, and return a complete and accurate list of all colored minors, specifying the name and age of each, residing within their townships, wards or districts, above the age of fourteen, if males, and thirteen, if females, who have not been regularly bound by indenture as apprentices to some art, trade, calling or service; which return, the said commissioners shall deliver to the clerk of quarter sessions, to be filed for the use of said court.

SECT. III. It shall be the duty of the court aforesaid, at the session next ensuing, to appoint two justices of the peace in each township, ward or district, who, after giving ten days notice to the parent, guardians or friends of all the minors reported in their township, ward or district, shall meet at the time and place of which the notice aforesaid shall have been given to the parent, guardians or friends of the minors, and decide upon the cases of exception according to the provisions of this act, and within thirty days thereafter, bind all the minors embraced in the provisions of this act to persons of good character: provided that an appeal shall be from their decision to the court aforesaid, if prosecuted at the court next ensuing; the said justices to receive each one dollar for every minor legally bound, to be paid by the master at the time of indenture.

SECT. IV. All persons embraced in the exceptions specified in section one of this act, shall nevertheless be annually reported by the assessors, and returned by the court to the justices of the peace aforesaid, and shall be continued as exceptions, only so long as the grounds of such exception in the judgment of said justices continued.

Sect. V. All the laws of this commonwealth, for the regulation and protection of apprentices, are hereby extended to all colored minors bound as apprentices under the provisions of this act: and by colored minors in this act are meant negroes, and also, mulattoes of every grade.

Sect. VI. Any justice of the peace neglecting to attend to the duties assigned him under this act, shall on information to the court aforesaid, be fined twenty dollars, for each case, one half to go to the informer, and the other half to the county treasury, for the benefit of the common schools in the district in which said justice resides.

Sect. VII. And any person desirous of having one of said minors indented to him, shall apply to one of the justices aforesaid, who if said applicant be temperate and of good character, shall give him a certificate, which he may present to the parent or guardian of said minor, and invite him to bring his or her said child or ward before the justice. And if said parent, guardian or minor refuses to go, it may be lawful for the justice to cause them to appear in the manner provided, in the case of absconding apprentices, in the act of September 29, 1770, for the regulation of apprentices, the expense of said process to be also paid by the person to whom said minor shall be indented. And if there be several applicants of temperate habits and good character, the minor shall have the privilege of election.

Sect. VIII. This act shall continue in force fifteen years and no longer.